

VIRGINIA:

IN THE CIRCUIT COURT OF FAIRFAX COUNTY

COMMONWEALTH OF VIRGINIA)	CRIMINAL NO. 102888
VERSUS)	
LEE BOYD MALVO a/k/a)	INDICTMENT - CAPITAL MURDER (2
John Lee Malvo)	Counts) and USING A FIREARM IN THE
		COMMISSION OF A FELONY

On June 2, 2003, Robert F. Horan, Jr., the Commonwealth's Attorney, Raymond Morrogh, the Deputy Commonwealth's Attorney, LEE BOYD MALVO a/k/a John Lee Malvo, the Defendant, and Michael Arif and Craig Cooley, co-counsel for the Defendant, appeared before this Court. The Defendant is indicted for the felonies of CAPITAL MURDER (2 Counts) and USING A FIREARM IN THE COMMISSION OF A FELONY and he appeared while in custody.

This case came before this Court today for argument on the Defendant's motions. The Court ruled as follows on each motion:

1. The Motion to Dismiss Count II and Count III of the Indictment pursuant to §19.2-294 of the Va. Code is denied.
2. The Motion for Appointment of a Handwriting Expert is granted. Richard Williams is appointed to assist the defense at a cost not to exceed \$2500.00.
3. The Motion for Disclosure of Scientific Materials Pertaining to Ballistics Testing is denied.
4. Motion for Disclosure of Scientific Materials Pertaining to DNA Testing is granted in part and denied in part. Referring to the separately lettered paragraphs of the motion, the Court ruled as follows on the Defendant's requests:
 - a. A complete copy of the case file including all laboratory records is denied.
 - b. A copy of all standard operating protocols used in connection with testing in this case is granted by agreement.

- c. Copies of all records that document the treatment of biological evidence from the initial point of collection up to the current disposition is denied.
 - d. A list of all commercial software used in the DNA testing in this case is granted.
 - e. A list of the macros used if the results produced by the software are dependent on the instructions contained therein is granted.
 - f. Copies of all data files used and created in the course of performing the testing and analyzing the data in this case is denied.
 - g. Copies of any allelic frequency tables relied upon in making statistical estimates in this case is granted.
 - h. Copies of all records maintained by the laboratory that document instances of unintended transfer of DNA or sample contamination in this case is denied.
 - i. Copies of all licenses or other certificates of accreditation held by the DNA testing laboratory is granted by agreement.
 - j. Background information about each person involved in conducting or reviewing the DNA testing performed in this case, including a current resume, job description, and a summary of proficiency test results is granted by agreement.
5. The Motion for Change of Venue is taken under advisement. The Court advised counsel that it expects to rule on this motion within thirty (30) days.

The Defendant was remanded to the custody of the Sheriff.

Entered on June 6, 2003.

JS
JUDGE JANE MARUM ROUSH